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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

OREGON FIREARMS FEDERATION, INC.
an Oregon public benefit corporation; BRAD
LOHREY, Sherman County Sheriff; CODY
BOWEN, Union County Sheriff; BRIAN
WOLFE, Malheur County Sheriff; HAROLD
RICHARD HADEN, JR., an individual; and
ADAM JOHNSON, an individual,

Plaintiffs,

v.

KATE BROWN, GOVERNOR OF THE
STATE OF OREGON, in her official capacity;
and ELLEN ROSENBLUM, ATTORNEY
GENERAL OF THE STATE OF OREGON,
in her official capacity,

Defendants.

Case No. 2:22-cv-01815-IM

DECLARATION OF RYAN BUSSE

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I, Ryan Busse, declare under penalty of perjury that the following is true and correct:

1. I am a former senior executive in the firearms industry and the author of *Gunfight: My Battle Against the Industry that Radicalized America* (New York: PublicAffairs, 2021). I make this declaration in support of Defendants' Response to Plaintiffs' Emergency Motion for Preliminary Injunction.

2. This declaration is based on my own personal knowledge and experience, and if I am called to testify as a witness, I could and would testify competently to the truth of the matters discussed in this declaration.

3. I have been retained to render expert opinions in this case. I am being compensated by the Oregon Department of Administrative Services at a rate of \$150 per hour.

BACKGROUND AND QUALIFICATIONS

4. I was raised with firearms as an integral part of my life. I began shooting with various guns as a young boy and continued to regularly use and study guns throughout my life (I am now 52). After graduating college, I entered the firearms industry in 1992. I became a sales executive in the firearms industry in 1995, and I spent more than 25 years in this role. While in the industry, I developed innovative sales teams, maintained relationships with the largest national retailers, and was responsible for worldwide sales of millions of firearms. I built a dealer-direct sales network that included more than 2500 firearms dealers including locations in all 50 states, and I regularly visited these dealers. In my job, I also studied and built sales programs that relied on understanding the technical nature of most firearms available in the U.S. market, including AR-platform and other types of rifles. During my career I played an integral role in building one of the largest firearms companies in the United States, Kimber, and I was nominated by shooting industry leadership many times for the SHOT Business "Shooting Industry Person of the Year" Award.¹ I served in an executive sales capacity as Vice President of Sales until August 2020. While in the industry I served as an advisor to the United States

¹ SHOT Business is a trade publication of the shooting and firearms industry, and "Person of the Year" was the highest award given to an individual in the firearms industry.

Senate Sportsmen's Caucus, and as the board chairman for Backcountry Hunters & Anglers, a national wildlife conservation and hunting organization.

5. I left the firearms industry because I was concerned about what I believed to be irresponsible and dangerous marketing and sales practices. Since I left, I have served as an advisor to the 2020 Biden presidential campaign, I have testified twice before the U.S. Congress about the firearms industry and gun policy (before the House Committee on Oversight and Reform² and the Joint Economic Committee³, respectively), I have been called to testify in closed-door briefings at the U.S. Senate, and I currently serve as a Senior Advisor to Giffords. I remain a proud and active gun owner, outdoorsman, and advocate for responsible gun ownership. I have provided expert witness testimony in *Miller v. Bonta*, No. 3:19-cv-01537-BEN-JLB (S.D. Cal.) and in *Duncan v. Bonta*, Case No. 3:17-cv-01017-BEN-JLB.

OPINIONS

6. When I first started my work in the gun industry in 1992 neither AR-15s nor large-capacity magazines (those capable of holding more than 10 rounds) were common. There was an unspoken agreement in the industry that tactical guns and gun paraphernalia—and virtually all large capacity magazines were considered tactical at this time—would not be displayed at trade shows or used at industry-sponsored shooting events. Individuals who brought such rifles to shooting events were asked not to return. This remained true as late as 2007. It was not until very recently that the gun industry began to push AR-15s leading to their popularization today.

7. Despite the recent popularization of large-capacity magazines, all firearms that can accept a detachable large-capacity magazine can also accept a magazine that holds 10 or fewer rounds and function precisely as intended. Any fixed-magazine firearm can be modified to hold 10 or fewer rounds and function as intended.

8. Many widely available guns are designed with universal magazine acceptance. Many

² See <https://bit.ly/3CVDQc4>.

³ See <https://bit.ly/3My2gLJ>.

handguns can accept a magazine within 15–20-plus rounds, but these handguns can accept and fully function with a magazine that holds 10 or fewer rounds. Firearm manufacturers have been providing these lower-capacity magazines for years and can easily modify a “high capacity” magazine into one that will accept only 10 rounds but still function just as designed in a firearm.

9. This includes all AR-15 style rifles, meaning that all AR-15s accept all other AR-15 magazines regardless of manufacturer. Although many AR-style rifles are sold with a 30-round magazine, the manufacturers all offer the optional purchase of 10-round or even lower-capacity magazines. In other words, the magazine is a universal accessory much like tires that fit many brands of cars.

10. It is also true of the 1911 style pistol which is one of the most popular self-defense guns in history. This century-old design is still a leading seller, and its standard specifications call for seven or eight round magazines. Dozens of the largest manufacturers in the world currently offer 1911 pistol models and magazines from each are interchangeable between all of these others. This interchangeability of magazines as accessories is illustrated by the fact that third party manufacturers who produce magazines for multiple gun companies will sometimes mistakenly ship a magazine from “company A” to “company B” because the only difference is the marking (there is no functional difference). I have personally witnessed this on multiple occasions.

11. There are many pistols (such as the very popular Model 1911—which was the accepted sidearm of the U.S. Military for decades and is still one of the most widely sold guns in the United States) that are built for magazines of eight rounds or less. While larger 10-plus round magazines exist for the 1911 and other similar pistols, a smaller magazine (standard seven or eight round) are considered preferable by almost all consumers because the physical size/profile of the shorter magazine is easier to carry, shoot and conceal. Still today, the 1911 and other similar guns which are built to function with sub-10 round magazines are built by many gun companies (Smith and Wesson, Ruger, Kimber, Springfield, Rock Island, Dan Wesson, and many other companies build and sell these 1911 pistols) and they are sold in high volumes by

most retailers in the United States. These guns are still considered extremely effective self-defense firearms by many of the leading firearms trainers in the country.

12. In 1994, Congress enacted the Violence Crime Control and Law Enforcement Act that prohibited the future sale of “large capacity ammunition feeding devices” defined as any magazine capable of accepting more than ten rounds of ammunition. California enacted a ban on the sale of large-capacity magazines in 2000 and that law is still on the books today. Since that enactment, and still today, firearms manufacturers build and sell dozens of gun models and magazines that are compliant with that California law. I am not aware of any assertion that these guns, built for and sold in California, are incapable of functioning as designed.

13. In my experience average retail price points for handguns today range between \$400 and \$650. Rifles and shotguns generally sell for average prices ranging between \$600 and \$900. Ammunition, which is almost always sold with guns at the time of purchase, sells for prices averaging between \$20 and \$50 per box. Other accessories such as holsters, cases, and cleaning kits are also often sold with guns at the time of purchase and typically increase the total average purchase price by \$20-\$50. Additional magazines sell for average retail prices of between \$15 and \$40 and are typically sold with guns designed for detachable magazines.

14. There are many examples of “fixed” magazines being modified to limit capacity without impeding basic function. Prominent examples include a long historical precedent of pump and semi-auto action shotguns with tubular magazines which are modified with a “block” to limit capacity to comply with hunting regulations specified by state wildlife agencies. In more than 40 years of shooting these guns and more than 25 years in the gun industry, I have never encountered an owner of one of these “blocked capacity guns” who claimed that the gun did not work as designed. Further, there are hundreds of thousands of them in common use with many more advertised and sold every year. Similarly, there is a proven and popular modification option for the conversion of large-capacity (30 round) AR-15 magazines to functioning 10-round magazines that can be found on various firearms sales outlets including this prominent website

(<https://www.magazineblocks.com/magento/products/magblock-kits/pmag-mcl-10-20-block.html>) dedicated to selling these modifications, which as the site claims “do not affect reliability.” In addition, leading national suppliers of aftermarket magazines such as Magpul, prominently offer easily-installed capacity-blocking modifications such as a product featured on the company’s website (https://magpul.com/minus10roundlimiter-pmaggenm35-56x45-3pack.html?mp_global_color=118) and while these are temporary modifications advertised and sold for compliance with competition or hunting regulations, an additional rivet could easily make them permanent.

15. Because a large capacity magazine is not a required component for a firearm to operate, it can and should be characterized as a firearms accessory. There is a massive market for magazines that far surpasses that of the market for firearms themselves in terms of numeric sales. There are companies, such as Magpul, that entirely specialize in firearms accessories including large-capacity magazines. In fact, most firearms manufacturers do not consider the magazines as integral enough to build their own magazines for their own guns. In almost all cases even the largest gun manufacturers contract with “accessory makers” who build magazines and then supply them to the gun manufacturer who then sells the magazines with the guns but also as an “add-on” accessory. Based on my experience, these magazines are a large profit center for the gun industry and sales of these magazines are treated as a category separate from gun sales throughout the sales chain. For example, I am aware of compensation programs from gun manufacturers that offer increased payment for magazines as opposed to guns, and retailers often incentivize their employees to push a buyer to purchase additional magazines because it is known that consumers view the purchase of magazines as separate from the gun and they are therefore viewed as “add-on sales” for retailers. These magazines are almost always manufactured by third-party companies (not the manufacturer of the firearm). The degree to which a magazine is viewed as an accessory by firearms retailers is reinforced by the fact that when manufacturers add additional magazines to the gun at the time of sale as an incentive to

encourage consumers to purchase the gun, the practice often upsets the retailers who view this as taking away an accessory sale they could have made.

16. In my experience, magazines are often used as marketing tactics to increase sales. Many gun buyers are encouraged to buy extra magazines of various sizes and they are encouraged to build an excess supply of more magazines than are needed even though these accessories basically never wear out. While it is possible for someone who shoots high volumes to eventually wear out a magazine, these shooters are exceptionally rare. Additionally, when a magazine begins to wear out you can purchase a new spring tune-up kit for the magazine and thereby refurbish the magazine.

17. In my experience, buying multiple magazines and maintaining a large supply of magazines is and has been encouraged by firearms manufacturers and firearms retailers. In addition, accessory sales and “accessory add-ons” which offer additional magazines as incentives to buy guns, have greatly increased the prevalence of extra magazine purchases and the “on hand” supplies of most gun owners. Additionally, there is a well-known sales spike for magazines whenever regulations are implemented as consumers anticipate laws or “grandfathering” with purchases meant to ensure legal supply for a long period of time. Manufacturers, distributors, and retailers often discuss this fact and adjusted supply chains to meet this demand. These reactions to potential legislation have been accepted as fact in the gun industry since 1994 when the federal crime bill enactment spurred the first such spike. During my career, I personally witnessed these sales spikes many times and often discussed the very notable sales impacts after or during state and national legislative debates concerning any change to firearms regulations. In all such cases, such as the 2013 Manchin-Toomey discussions in the United States Senate, just the potential of regulatory change spurred consumers to purchase large-capacity magazines. This is true of both federal and federal and state regulations. A recent example of this well-known reality includes “freedom week” in California in which a court allowed the sale and purchase of large-capacity magazines during one week in Spring 2019 resulting in massive sales spikes as

consumers “stocked up.”

18. Based on my experience, most gun owners purchase several magazines for each gun, they consider those magazines durable goods, and they can easily modify or repair these magazines. Additionally, given the prevalence industry-accepted of 10-round magazine options which advertise “no impact to reliability” and capacity-blocking devices meant to modify existing large-capacity magazines, it is also clear to me that large-capacity magazines are not necessary for the basic intended use of firearms. Further in my experience large-capacity magazines are not necessary to effectively deploy guns for self-defense or sporting purposes like hunting.

19. Magazines, including all large-capacity magazines, are considered “durable” by the gun industry and by firearms consumers. For almost all gun owners, the important magazine components will exceed their lifespan; very few people ever wear out magazines. When, on rare occasions, magazines break or shooters “wear out” magazines, there is a vibrant “repair” and “rebuild” industry aimed at extending magazine life indefinitely. Popular products to refurbish magazines include “rebuild kits” and can be found at many sales outlets including national websites such as <https://maggedsupplyllc.com/magazine-rebuild-kits/ar-15-magazine-rebuild-kits/>. This “rebuild or repair” approach, which is “easy” according to industry advertising, is identical to parts replacement and refurbishment of other durable goods in our economy.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on November 29, 2022, at Kalispell, Montana.

/s/ Ryan Busse
Ryan Busse